

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVE MICHAEL COX,)	3:11-cv-00539-LRH-WGC
)	
Plaintiff,)	<u>MINUTES OF PROCEEDINGS</u>
)	
vs.)	March 4, 2013
)	
GREGORY W. SMITH, <i>et. al.</i> ,)	
)	
Defendants.)	
_____)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: FTR

COUNSEL FOR PLAINTIFF: No Appearance on behalf of plaintiff

COUNSEL FOR DEFENDANTS: Micheline Fairbank

MINUTES OF PROCEEDINGS: Motion Hearing

9:57 a.m. Court convenes.

Ms. Fairbank advises the court that she has been informed by Ely State Prison (“ESP”) correctional staff that Mr. Cox has refused to be restrained in order to exit his cell to attend this telephonic hearing. Ms. Fairbank had asked the shift lieutenant to attempt one additional time to see if Mr. Cox would appear for this hearing; however, Mr. Cox continues to refuse to comply with ESP regulations and is therefore not present for today’s hearing.

The court accepts Ms. Fairbank’s representation of Mr. Cox’s absence; nevertheless, the court proceeds to address plaintiff’s three motions, Dkt. #129, Dkt. #130, and Dkt. #131 and defendants one consolidated response as to the three motions, Dkt. #136.

**I. Motion for Rule 11 Sanctions/Fines Against ESP-Official/Defendants’
Destruction/Thefts of Plaintiff’s (38) Legal Documents, Denial of Access to Law
Library Supplies, Copy Work/Order/Alt. TRO (FRCP 65(A)) (Dkt. #129)**

The court allows plaintiff’s motion Dkt. #129 to proceed on the allegation of destruction of legal documents and alleged non-compliance as to copy work and legal supply orders issued by this court. The court notes that it does not appear defendants have adequately responded specifically to this allegation.

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Ms. Fairbank represents that she was unable to find any content within Mr. Cox's motion in which he was specifically alleging that any of the legal documents or legal access to supplies in this particular case were being obstructed. Therefore, it was difficult, for purposes of this case, to respond to any allegations against the named defendants in this matter. Ms. Fairbank further asserts that based on all the contact she has had with the defendants in this particular matter, the named defendants in this case have not engaged in any destruction of legal documents nor, does it appear, the defendants have day to day interaction with plaintiff.

The court accepts Ms. Fairbank's representation that defendants deny any legal documents being destroyed. As to the second component of this instant motion, the court directs that a supplement to defendants opposition (Dkt. #136) be filed that explains the status of Mr. Cox's copy work and legal supply orders issued by this court. Ms. Fairbank agrees to file a notice that confirms the Nevada Department of Corrections ("NDOC") has complied with this court's order Dkt. #127.

Therefore, plaintiff's *Motion for Rule 11 Sanctions/Fines Against ESP-Officials / Defendants' Destruction/Thefts of Plaintiff's (38) Legal Documents, Denial of Access to Law Library Supplies, Copy Work Order/Alt. TRO (FRCP 65(A))* (Dkt. #129) is **GRANTED in PART** to the extent defendants shall provide the court with a status report regarding plaintiff's copy work and legal supply status with the NDOC; otherwise, plaintiff's motion #129 is **DENIED**.

II. Motion for Rule 11 Sanctions. Fines Imposed to ESP-NDOC Officials/Defendants Et Al. Or 'Continuing!' Violations of Court's (#08-0663)(#126-#128 #151 Docket) 'Unrestricted!' (12-6-10 - 7-27-2011) Ambulatory Aid/Assistance Order/Alt. TRO (FRCP 65(a)) (Dkt. 130)

Based on Ms. Fairbank's representation of the attempts and efforts made by the ESP to afford Mr. Cox the opportunity to review his medical and I-File records, plaintiff's *Motion for Rule 11 Sanctions. Fines Imposed to ESP-NDOC Officials/Defendants Et Al. Or 'Continuing!' Violations of Court's (#08-0663)(#126-#128 #151 Docket) 'Unrestricted!' (12-6-10 - 7-27-2011) Ambulatory Aid/Assistance Order/Alt. TRO (FRCP 65(a))* (Dkt. #130) is **DENIED**.

III. Motion for Defendants/Defense Counsel to Comply with Court's (#125) Discovery Orders (12-12-2012) (Dkt. #131)

Ms. Fairbank represents, based on her understanding, all documents related to this request have been provided to Mr. Cox as part of the availability in his medical records or the documents have been provided to Mr. Cox in support of defendants' Motion for Summary Judgment (Dkt. #110). Ms. Fairbank states, to the best of her knowledge, there are no additional

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documents other than those provided to Mr. Cox.

The court accepts Ms. Fairbank's representation that all documents have been provided to Mr. Cox; therefore, plaintiff's Motion *for Defendants/Defense Counsel to Comply with Court's (#125) Discovery Orders (12-12-2012)* (Dkt. #131) is **DENIED**.

IV. Response Deadline to Defendants' Motion for Summary Judgment (Dkt. #110)

Plaintiff shall have up to and including **Monday, March 25, 2013**, to file a response to defendants' Motion for Summary Judgment (Dkt. #110). There shall be no further requests for extension of time granted.

IT IS SO ORDERED.

10:21 a.m. Court Adjourns.

LANCE S. WILSON, CLERK

By: _____/s/
Katie Lynn Ogden, Deputy Clerk